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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,372	03/12/2002	John Siemens	P68.2-10455	1759
490	7590	12/23/2003	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			BEAUGLAINE, MARK J	
		ART UNIT	PAPER NUMBER	
		3653		

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/088,372	SIEMENS, JOHN
	Examiner Mark J. Beauchaine	Art Unit 3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 12 March 2002.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-3 and 8-27 is/are pending in the application.
  - 4a) Of the above claim(s) 24-27 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,8-15 and 18 is/are rejected.
- 7) Claim(s) 16,17 and 19-23 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 March 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Specification***

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claim recites the limitation "removable plate" in line 3. There is insufficient antecedent basis for this limitation in the claim. Said limitation was previously found in canceled claim 7.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8, 9, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patent Number 5,899,358 by Daumueller (hereinafter Daumueller). The dispensing device disclosed by Daumueller incorporates storage magazine 19, dispensing drum 5 and cam lever 15 that read on the Applicant's receptacle, dispensing means and rotating device, respectively.

Regarding claim 3, Daumueller further discloses stop plate 17 that reads on the Applicant's guide means. Regarding claim 8, Daumueller further discloses door 41 that reads on the Applicant's door. Regarding claims 14, 15 and 18, Daumueller further discloses "a sensor [that] is located . . . in the opening in the dispensing drum to determine whether or not . . . the opening is filled." (See column 1, lines 54 plus.)

Daumueller fails to specifically disclose an element that reads on the Applicant's controller of claim 1. However, the dispensing drum 5 of Daumueller is actuated by motor 16 and a user-activated controller is a common means of operating dispensers. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a user-activated controller into the dispenser of Daumueller to provide an effective means of apparatus operation.

Claims 10-13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daumueller as applied to claim 1 above, and further in view of Patent Number 4,063,633 by Hall (hereinafter Hall). Regarding claims 10-13, Daumueller fails to disclose a dispensing means having a toothed wheel. However, the use of such an element in a dispenser is well known in the art. Hall teaches a feed machine that discharges cylindrical objects from a magazine 2 via rotating transfer means 50 that reads on the Applicant's toothed wheel of claim 10. Furthermore, said transfer means includes teeth 53 and grooves 55 that read on the Applicant's teeth and slot, respectively, of claim 12. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the transfer means of Hall into the dispenser apparatus of Daumueller to provide an effective means of dispensing cylindrical objects.

#### ***Allowable Subject Matter***

Claims 16, 17 and 19-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The following related art made of record and not relied upon is considered pertinent to applicant's disclosure:

Patent Number 6,092,977 by Fuchigami because of its movable well 212b,  
Patent Number 4,940,162 by Thie because of its rotating eccentric 40, and  
Patent Number 3,713,563 by Dickensheets et al because of its sweeper blade 60.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (703)308-6336. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

mjb

  
DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600